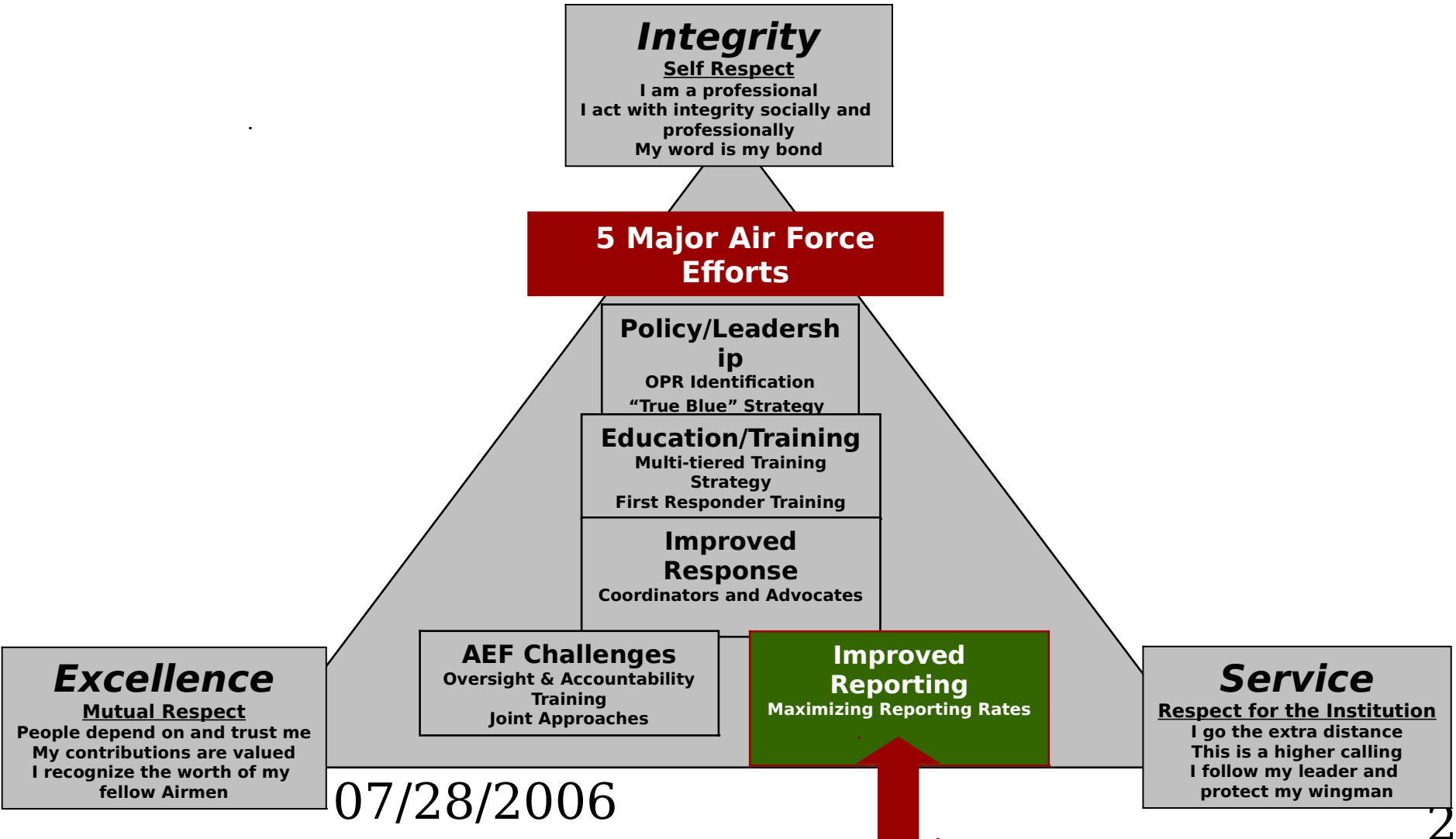
Reporting and Confidentiality

Block 5

Sexual Assault Response Coordinator Training

Enhancing Reporting



How to Enhance Reporting?

- SAs most underreported violent crimes
- Victim's lack of privacy/confidentiality is most frequently quoted barrier to reporting in AF assessment and academic research
  - Loss of control over information
  - Stigma, fear, shame

How to Enhance Reporting?

- Commanders need to be able to command
  - Needs accurate information ASAP
  - Commander held responsible regardless of what he/she knows
  - Mission Decisions: PRP Status; Deployments; Capacity to perform duties without harming self or others; Authority to bear arms
  - Accountability for victim & offender
  - Suicide

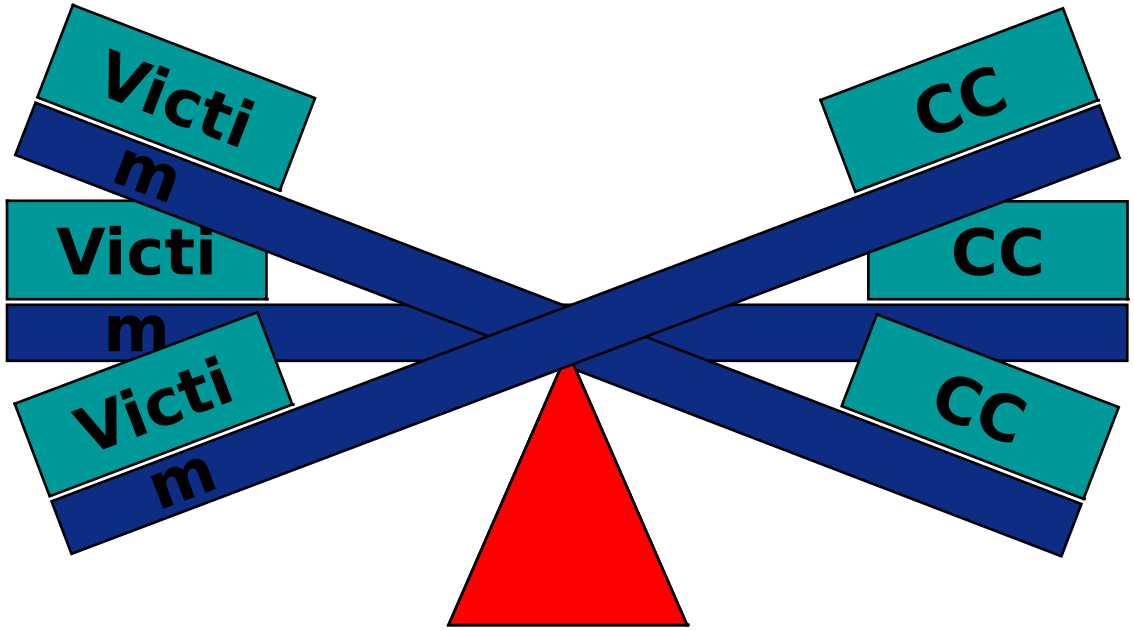
How to Enhance Reporting?

- With these givens…
  - Significant percentage of sexual assault victims do not report
  - Victim’s lack of privacy/confidentiality is most frequently quoted barrier to reporting
  - Commanders need to be able to command
- What is the solution?

How to Enhance Reporting?

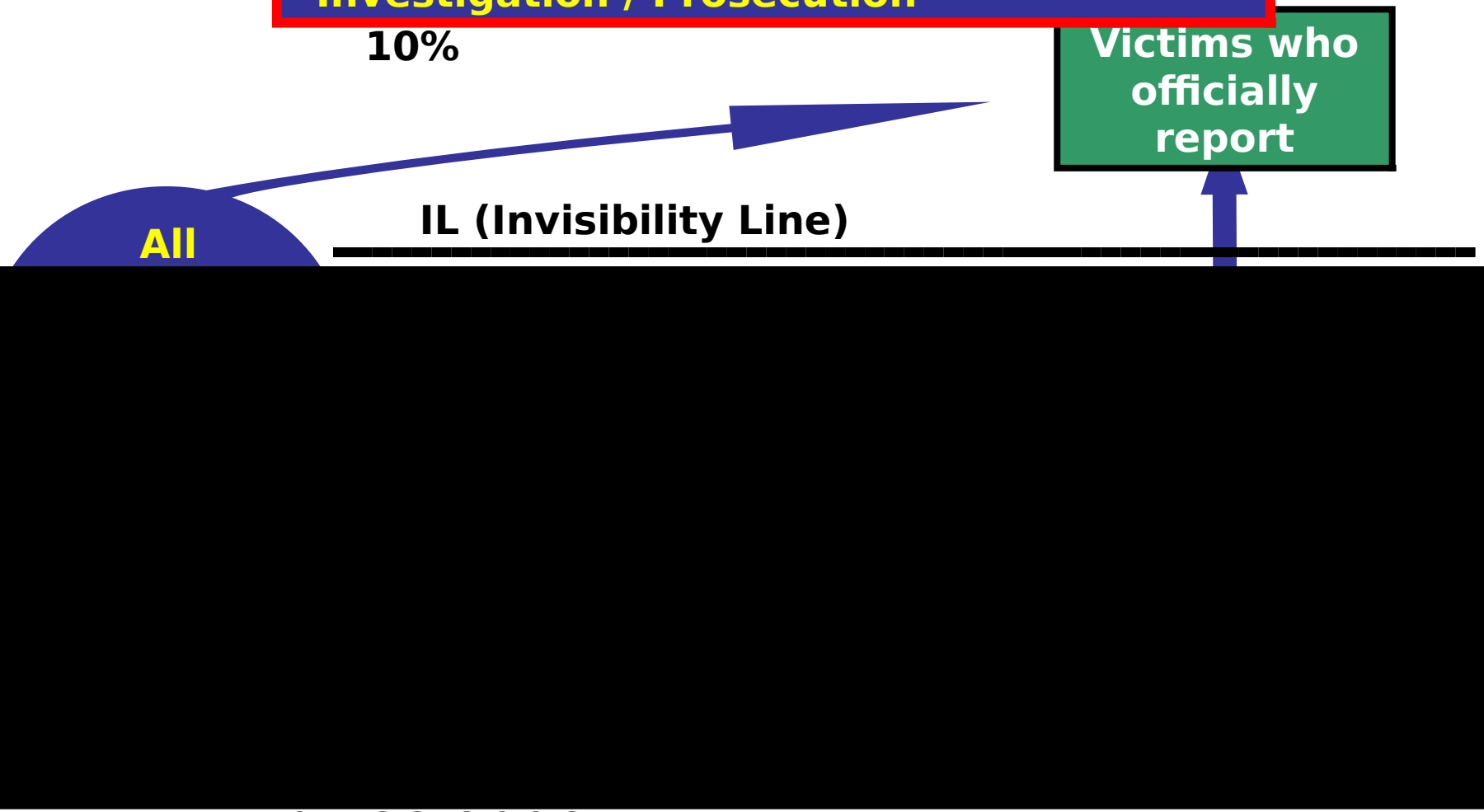
- Intense debate over appropriateness of confidentiality

Victim's needs vs commander's need to know



Focus on AF Reporting Policies and Procedures

- Maximize privacy
- Improve victim care
- Investigation / Prosecution



Confidentiality

- DoD concluded confidential reporting option necessary
  - Provide additional time and increased control over the release and management of the victim's personal information
  - Empower the victim to seek relevant information and support
  - Leading to informed decision about participating in

Simple Bottom Line

I believe it will result in more unrestricted reports and provide more victims with support

Reporting

- DTM JTF-SAPR-009 issued 16 Mar 05
  - Effective 14 Jun 05
- DOD preference is for unrestricted reporting of offenses
- Policy makes it the commander's responsibility to protect victim privacy
- Two reporting options
  - Restricted
  - Unrestricted

Restricted Reporting

- Disclose details of assault to specific individuals without triggering investigative process
  - SARC
  - VA
  - Healthcare provider (who notifies SARC)
- Others with a valid privilege (like chaplains) may receive reports but they are not restricted reports unless forwarded to those listed above
- Any communication (oral, written, electronic) that is personal information relating to the victimization made to a SARC, victim advocate (VA), or health care provider

Restricted Reporting

- Who may make a restricted report
  - Active duty military personnel of the Armed Forces
  - Members of Reserve if performing federal duty (active duty training or inactive duty training)
  - Members of the National Guard in Federal service (Title 10) status)
  - Coast Guard when attached to the Department of Defense

Guard and Reserve Basics

- Explain the basic concepts and differences in the Guard, Reserve and active duty

Restricted Reporting

- Who may NOT make a restricted report
  - Retired members of any component
  - Dependents
  - AF civilian employees
  - Civilians
- Must be military

Civilian Victims

- Civilians who are not eligible for Restricted Reporting
  - Not mandatory reporters
- SARC may still assist victims by:
  - Referral to civilian agencies
  - Reference materials
  - Etc.

Restricted Reporting

- The victim will be asked to acknowledge in writing an understanding of the limits on confidential reporting and the reasons that unrestricted reporting is preferred by DOD
- Allows for collection of forensic evidence without giving up confidentiality
  - Forensic Evidence Collection kit to be anonymously coded and not processed until victim gives consent
  - To be kept by OSI (interim)
  - To be kept for 1 year

Restricted Reporting

- Release of generic data to Commander (CC)
  - Incident characterized as recent (within the last 30 days) or not recent (older than 30 days)
    - Date and time (night or day)
    - General information as to location (a dorm, parking lot, off base, etc.)
    - Number of alleged assailants
    - Number of alleged victims
    - Nature of assault (rape, forcible sodomy, indecent assault)
  - CC use of info
    - Not permitted to initiate investigations or use in a manner that is likely to ID
    - Enhance preventive measures
    - Enhance the education and training of their personnel
    - Scrutinize organization's climate and culture for contributing factors

Restricted Reporting

- Healthcare provider conveys to commander any adverse duty impact info
  - Uses current process without identifying info result of sexual assault

Restricted Reporting

- Unauthorized disclosure basis for disciplinary action
- When to disclose covered communications
  - Victim consents in writing
  - Other exception applies

Restricted Reporting

- Exceptions for disclosure
  - Communication reveals imminent danger
  - Victim releases
  - Adverse impact on duty performance (PRP, weapons issues)
  - Ordered by Military Judge
  - Ordered by civilian court
  - Required by federal or state statute (such as child abuse info)
- Disclose only what's necessary to satisfy the purpose of the disclosure

Unrestricted Report

- Sexual assault report made through normal reporting channels
  - Chain of command
  - Law enforcement
  - AFOSI
- Report made to SARC or healthcare provider where the individual does not elect restricted reporting
- SARC notified and VA assigned

Independent Report

- Sexual assault disclosed to command or law enforcement from source independent of restricted reporting avenues
  - An official investigation may be initiated
- When SARC or Victim Advocate learn of independent report, notify victim
- Covered communications not released unless the victim authorizes the disclosure or another exception applies

Restricted Reporting
Domestic Abuse

- DoD restricted reporting policy for victims of domestic abuse
- Effective 22 Apr 06
- Applies to individuals who meet eligibility criteria
- Interim Policy Guidance given to the field
- Will cover in detail later

State Issues

- Work with SJA to determine exactly what the state law is and what it requires
  - What they think is not necessarily so
- In coordination with SJA, consult local law enforcement, the DA, hospital counsel and any other local players as to how that law is locally implemented
- *Rape Reporting Requirements for Non-Vulnerable Adults*, ARPI
- Coordinate with other services
- If not solvable locally, coordinate with SJA and forward issue to MAJCOM SARC

References

- “Rape In America: A Report to the Nation”, Dean G. Kirkpatrick, Christine N. Edmunds, and Anne Seymour, National Victims’ Center and Crime Victims Research and Treatment Center, April 23, 1992.
- “The Sexual Victimization of College Women”, Bonnie S. Fisher, Francis T. Cullen, Michael G. Turner, U.S. Department of Justice, National Institutes of Justice, December 2000, NCJ 182369.

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- “Sexual Assault and Other Types of Sexual Harassment by Workplace Personnel: A Comparison of Antecedents and Consequences”, Melanie S. Harned, Alayne J. Omerod, Patrick A. Palmieri, Linda Collinsworth, and Maggie Reed, Journal of Occupational Health Psychology, 2002, Vol. 7, No. 2 174-188.”

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- Bachman, Ronet, “The factors related to rape reporting behavior and arrest: New evidence from the National Crime Victimization Survey”, (Mar 1998), Criminal Justice and Behavior. 25(1), 8-29.

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